

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

| | | |
|-------------------------------------|---|----------------------------|
| Ronnie Allen Mitchell, #217691, |) | C.A. No. 6:05-1637-CMC-WMC |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | OPINION and ORDER |
| |) | |
| Colie L. Rushton, Warden, MCCI; and |) | |
| Henry D. McMaster, Attorney General |) | |
| for South Carolina, |) | |
| |) | |
| Respondents. |) | |
| |) | |

This matter is before the court on Plaintiff's *pro se* petition filed pursuant to 28 U.S.C. § 2254. Plaintiff filed his petition on June 6, 2006, seeking relief due to alleged ineffective assistance of counsel and a jurisdictional defect in the State's indictment.

In accordance with the court's order of reference, 28 U.S.C. § 636(b), and Local Civil Rule 73.02 (B)(2)(c), DSC, this matter was referred to United States Magistrate Judge William M. Catoe for pre-trial proceedings and a Report and Recommendation. On December 22, 2005, the Magistrate Judge issued a Report recommending that Respondents' motion for summary judgment be granted. The Magistrate Judge found the Petition to be time-barred. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Plaintiff filed "objections" to the Report and Recommendation on January 17, 2006.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo*

determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (internal quotation omitted).

After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. Plaintiff’s objections present no legally relevant argument. In fact, the objections, styled “Response to Motion for Summary Judgment, and Report/Recommendation of Magistrate Judge et al.,” present no reply to the Report and Recommendation at all.

IT IS THEREFORE ORDERED that Respondents’ motion for summary judgment is **granted**. This petition is untimely and is dismissed with prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
January 26, 2006